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OFFICE OF PETITIONS

In re Application of
Diana Zanini et al.
Application No. 10/028,400
Filed: December 20, 2001
Attorney Docket No. VTN-568

ON PETITION

This is a decision on the renewed petition, filed July 12, 2006 under 37 CFR 1.137(b)¹, to revive the above-identified application.

The petition is **GRANTED**.

A Final Office Action was mailed February 9, 2005. In response thereof, an amendment and a Notice of Appeal were filed on May 11, 2005 with a certificate of mail pursuant to 37 CFR 1.8, dated May 9, 2005. By advisory action, applicants were advised that the amendment did not place the application in condition for allowance and thus was not entered. The Notice of Appeal, however was entered and required the filing of an Appeal Brief within two months of the filing of the Notice of Appeal. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 11, 2005 with a certificate of mail pursuant to 37 CFR 1.8, dated May 9, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the above-identified application became abandoned on July 12, 2005. See MPEP 1215.04. A notice regarding the

¹ A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

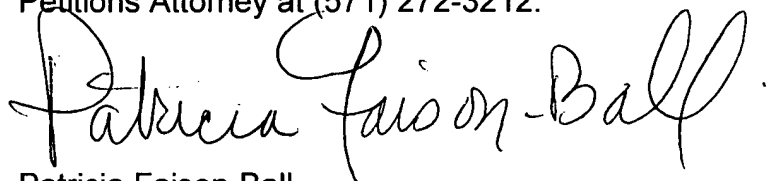
(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

appeal was mailed February 17, 2006.² A petition to revive was filed March 9, 2006 but dismissed in a decision mailed April 27, 2006 because the amendment submitted with the petition did not prima facie place the application in condition for allowance.

Comes now petitioner with a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1616 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P" and a long, sweeping underline.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

²A response was purportedly filed June 6, 2005, prior to the maximum period obtainable with an extension of time, but the date of the submission was not proven to the satisfaction of the Commissioner and thus was not accepted as timely filed.